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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,143	06/20/2003	Charles J. Klindt	SAA-19-1	7122

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SQUARE D COMPANY
INTELLECTUAL PROPERTY DEPARTMENT
1415 SOUTH ROSELLE ROAD
PALATINE, IL 60067

EXAMINER

HARTMAN JR, RONALD D

ART UNIT	PAPER NUMBER
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2121

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/601,143

Applicant(s)

KLINDT ET AL.

Examiner

Ronald D. Hartman Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 12, insert "a" in between "control" and "device" in line 4.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 7, 12, 16 and 18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 6, 10, 13 and 15 of U.S. Patent No. 6,853,867. Although the conflicting claims are not identical, they are not patentably distinct from each other because the differences would have been obvious to one of ordinary skill in the art at the time the invention was made, and this is further explained below.

As per pending claim 1, patented claim 1 discloses the same features and or limitations and is noted that pending claim 1 is broader than patents claim 1 because pending claim1 does not require a subscription list. It is also noted that pending claim 1 adds a further limitation in which the controller includes at least one input/output module utilized to control a device, and this feature is believed to be an obvious variation of a

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programmable logic controller. That is, it is well known in the art of PLC's (programmable logic controllers), to which the invention is related, that a PLC is comprised of several functional modules, least of which is an input/output module, and its incorporation into patented claim 1 would have been obvious since it would provide a means by which the controller could accept instructions for operation and pass these instructions, in the form of commands, to the controlled device. In other words, these are features that must be present in order for the controller to perform the operations as claimed, and therefore, its incorporation into patented claim 1 would have been obvious to one of ordinary skill in the art at the time the invention was made in order for the system to perform as disclosed.

Furthermore, as per pending claim 1, a feature wherein the controller, the application and the input/output module cooperative to control a device are obvious for at least the same rational. That is, since an interface is disclosed for communicating between a controller and a web browser, the controller obviously controls something, and the control is implemented by utilizing an input/output module, as already explained above, wherein obviously all of the features cooperative to control the device, or the system would not be able to perform the functions or features as claimed. Therefore, for at least the aforementioned rational, pending claim 1 is an obvious variation of patented claim 1 and this would have been obvious to one of ordinary skill in the art at the time the invention was made.

As per the correlation of pending claim 7 to patented claim 6, the same rational as applied to patented and pending claim 1, from above, is applied equally herein.

As per the correlation of pending claim 12 to patented claim 10, the same rational as applied to patented and pending claim 1, from above, is applied equally herein.

As per the correlation of pending claim 16 to patented claim 13, the same rational as applied to patented and pending claim 1, from above, is applied equally herein.

As per the correlation of pending claim 18 to patented claim 15, the same rationale as applied to patented and pending claim 1, from above, is applied equally herein.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald D. Hartman Jr. whose telephone number is (571) 272-3684. The examiner can normally be reached on Mon.-Fri., 11:00 - 8:30 pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on (571) 272-3687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ronald D Hartman Jr.

Patent Examiner

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X ROH

August 18, 2005


Anthony Knight
Supervisory Patent Examiner
Group 3600